



DEPARTMENT OF AGRICULTURE

[Docket No. USDA-2022-0001]

Privacy Act of 1974; New System of Records

AGENCY: Office of the Assistant Secretary for Civil Rights, Department of Agriculture.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the Office of the Assistant Secretary for Civil Rights (OASCR), a component within the United States Department of Agriculture (USDA or “the Department”), proposes to develop a new system of records notice titled, “USDA Reasonable Accommodations and Personal Assistance Services (RAPAS).” USDA/RAPAS – 01 proposes to establish this system of records to allow USDA and its mission areas and agencies to collect and maintain records on: Applicants for employment who have disabilities; individuals with disabilities to facilitate their participation in a USDA program or activity, including attendance at a meeting, training, conference or other USDA-sponsored event at either a USDA facility or outside USDA employees who seek accommodations to allow them to perform the essential functions of their job; employees with disabilities who request or receive reasonable accommodation as required by the Department as the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as amended by the Americans with Disabilities Amendment Act of 2008 (ADAAA); individuals who receive accommodations under the Family Medical Leave Act, and individuals who request or receive accommodations under Title VII of the Civil Rights Act of 1964. Another purpose of this system is to track and report the processing of USDA-wide requests for reasonable accommodation while ensuring compliance with applicable laws and regulations, including confidentiality requirements protecting information individuals submit in support of accommodation requests.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to comment on the routine uses, described below.

ADDRESSES: The public, OMB, and Congress are invited to submit any comments by mail to the United States Department of Agriculture, Privacy Office, ATTN: Privacy Analyst, 1400 Independence Ave. SW, Washington, DC 20250; by telephone at 202–384–5026; or by email at *SM.OCIO.CIO.UsdaPrivacy*.

FOR FURTHER INFORMATION CONTACT: Sullie Coleman, Chief Privacy Officer, 1400 Independence Ave. SW, Washington, DC 20250, 202–604–0467

SUPPLEMENTARY INFORMATION: This system of records covers information necessary and relevant to USDA activities providing reasonable accommodation (RA) to qualified employees and applicants with disabilities, personal assistance services (PAS) to employees with targeted disabilities, and qualified people with disabilities an equal opportunity to obtain and successfully perform a job to the same extent as employees without disabilities, and enjoy the benefits and privileges of employment.

USDA is establishing “USDA Reasonable Accommodations (RA) and Personal Assistance Services (PAS).” USDA/RAPAS-01, as a USDA-wide Privacy Act system of records. A USDA-wide system of records notice (SORN) will support multiple USDA paper or electronic recordkeeping systems. USDA components maintaining the same kind of information on individuals for the same purpose maintain the system. The establishment of a USDA-wide SORN helps USDA standardize the rules governing the collection, maintenance, use, and sharing of personal information in key areas across the department. A USDA-wide SORN also reduce duplicative and overlapping SORNs published by separate USDA components. The creation of USDA/RAPAS-01 SORN is expected to make locating relevant SORN easier for USDA personnel and the public and create efficiencies in the operation of the USDA privacy program.

This SORN describes reasonable accommodation and assistive technology records maintained by all component parts of the USDA, wherever they are maintained. The system covers both electronic and paper records and will be used by USDA components and offices to maintain records about accommodations based on disability requested by or provided to employees and applicants for employment and participants in USDA programs and activities. The Rehabilitation Act of 1973, as

amended, generally requires Federal agencies to provide accommodations which enable individuals with disabilities to perform USDA employment and participate in USDA programs and activities, unless such accommodation would impose an undue burden.

SYSTEM NAME AND NUMBER: USDA Reasonable Accommodations (RA) and Personal Assistance Services (PAS).” USDA/RAPAS-01

SECURITY CLASSIFICATION: Controlled Unclassified Information.

SYSTEM LOCATION: The agency, US Department of Agriculture, address is 1400 Independence Ave. SW, Washington, DC 20250. RA and PAS records are located in personnel or designated Reasonable Accommodation Coordinator offices in the mission areas, agencies or staff offices in which the reasonable accommodation requests were filed.

SYSTEM MANAGER: Contact information of the agency official who is responsible for this system is the Office of the Assistant Secretary for Civil Rights (OASCR), 1400 Independence Ave. SW, Washington, DC 20250, (202) 720-3808.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: The Rehabilitation Act of 1973, §§ 501 and 504, Public Law 93–112, as amended; the Americans with Disabilities Act of 1990, Public Law 101–336 (1990), as amended by the ADA Amendments Act of 2008 (ADAA), Public Law 110–325 (2009); Title VII of the Civil Rights Act of 1964, Public Law 88–352, as amended; and the Family and Medical Leave Act of 1993, Public Law 103–3 (1993), as amended; Executive Order 13164 (July 28, 2000); and Executive Order 13548 (July 26, 2010); Executive Order 14042 (September 09, 2021); and Executive Order 14043 (September 09, 2021).

PURPOSE(S) OF THE SYSTEM: The purpose of this system is to allow USDA’s mission areas, agencies or staff offices, to collect and maintain records on individuals who seek or receive accommodations to facilitate their participation in USDA RA program or activity, their attendance at a meeting, training, conference or event at a USDA facility or sponsored by USDA, and employees and applicants for employment who request or receive reasonable accommodation by the Department under the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, as amended by the ADAAA, and Title VII of the Civil Rights Act of 1964, as amended. Additionally,

this system allows USDA to collect records related to leave requests under the Family and Medical Leave Act of 1993, including accommodation requests and information. Another purpose of this system is to track and report the processing of requests for reasonable accommodation USDA-wide to comply with applicable laws and regulations and to preserve and maintain the confidentiality of the information provided in support of the accommodation request.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Categories of individuals covered by this system include applicants for employment and employees who request or receive reasonable accommodations under: The Rehabilitation Act of 1973, Public Law 93–112, as amended, the Americans with Disabilities Act of 1990, Public Law 101–336 (1990), as amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAA); Title VII of the Civil Rights Act of 1964, Public Law 88–352, as amended; and employees who request leave under the Family and Medical Leave Act of 1993 (FMLA), Public Law 103–3 (1993), as amended.

This also includes participants in USDA programs and activities, non-Federal County Office (CO) employees in the Farm Service Agency (FSA) and elected or appointed FSA County and State Committee members, visitors at USDA facilities (and USDA-sponsored events at other facilities), and authorized individuals or representatives (*e.g.*, family member or attorney) who request a reasonable accommodation on behalf of an applicant for employment or employee. It also includes current employees who request or receive and former employees who requested or received a reasonable accommodation or leave (under FMLA) during their employment with USDA.

CATEGORIES OF RECORDS IN THE SYSTEM: Requestor's status (applicant or anybody who identifies or recognizes the need for an accommodation at a USDA facility);

- First, middle, and last name of the person who requires the accommodation;
- Address, phone number, and email address of the person who requires the accommodation;
- Date of request;
- Meeting or other event for which the request was made (room number, date and time of the meeting/event);
- Program or activity for which the request was made;

- Job (occupational series, grade level, and bureau or office) for which reasonable accommodation was requested; and
- Information concerning the nature of the disability and/or the need for accommodation, including appropriate medical or other documentation when the disability and/or need for accommodation is not obvious or the accommodation cannot be easily provided with little effort or expense.

Information concerning the nature of the disability and/or need for accommodation includes:

- Medical documentation provided by the requester or at the requestor's direction or request (*e.g.*, by a representative or the individual's healthcare provider) as required to substantiate an individual's disability or need to care themselves or a family member (medical documentation supporting the reasonable accommodation request must be kept in a confidential file separate and apart from the requestor's Official Personnel Folder, Employee Performance File, or drop file);
- Information related to employees and their family members, including, but not limited to, first, middle, and last name, relationship to the employee, as required to substantiate need to care for a new child, recover from a serious illness, or care for a seriously ill family member.
- Type(s) of accommodation(s) requested or received;
- Request approvals and denials notice of procedures for informal dispute resolution or appeal processes, forms, correspondence, records of oral conversations, policy guidance documents, and supporting notes and documentation.
- Expense(s) information associated with the requested accommodation;
- Information about a requestor's religious beliefs, voluntarily provided by the requestor in support of a request for accommodation or exemption from a requirement or penalty;
- Whether the request came from someone planning to visit a USDA facility;
- Whether an accommodation requested or provided occurred pre- employment, during current or former employment or for a particular event;
- How the requested accommodation would assist in job performance, participation in a USDA program or activity, or attendance at a USDA- sponsored meeting or event;

- The amount of time taken to process the request;
- Whether the request was granted or denied and reason; and
- The sources of technical assistance consulted in trying to identify a possible reasonable accommodation.

RECORD SOURCE CATEGORIES: Information is obtained from applicants for employment with disabilities as well as employees with disabilities, employees seeking leave under FMLA, participants in USDA programs and activities, visitors at USDA facilities, and authorized individuals or representatives (*e.g.*, family member or attorney) who requested or received reasonable accommodations from USDA's mission areas, agencies or staff offices as required by the Rehabilitation Act of 1973, the ADAAA, and Title VII of the Civil Rights Act, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under the Privacy Act of 1974, 5 U.S.C. 552a(b), records and/or information or portions thereof maintained as part of this system may be disclosed outside USDA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To the United States Department of Justice ("DOJ"), for the purpose of representing or providing legal advice to the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, when such proceeding involves:

- (a) The Department or any component thereof;
- (b) Any employee of the Department in his or her official capacity;
- (c) Any employee of the Department in his or her individual capacity where DOJ or the Department has agreed to represent the employee; or
- (d) The United States, when the Department determines that litigation is likely to affect the Department or any of its components; and the use of such records by the DOJ is deemed by the DOJ or the Department to be relevant and necessary to the litigation.

(2) To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations;

(3) To a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) To the National Archives and Records Administration Archivist (or the Archivist's designee) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906;

(5) To appropriate agencies, entities, and person when (1) the Department of Agriculture and/or Office of the Assistant Secretary for Civil Rights suspects or has confirmed that there has been a breach of the system of records; (2) the Department of Agriculture and/or Office of the Assistant Secretary for Civil Rights has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of Agriculture and/or Office of the Assistant Secretary for Civil Rights (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of Agriculture's and/or of the Assistant Secretary for Civil Rights efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(6) To another Federal agency or Federal entity, when the Department of the Treasury and/or the Office of Civil Rights and Diversity determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

- (7) To medical personnel to meet a bona fide medical emergency;
- (8) To an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint or appeal filed by an employee;
- (9) To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion on such matters as settlement, plea bargaining, or in information discovery proceedings; and
- (10) To contractors, grantees, experts, consultants, students, interns, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are on paper and/or in digital or other electronic form. Digital and other electronic images are stored on a storage area network in a secured environment. Records, whether paper or electronic, may be stored in a separate, secure location at the USDA Headquarters or at the mission area, agency or staff office level.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records may be retrieved by name of the requester, employing mission area, agency or staff office, or any unique identifier to the request if applicable.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: To the extent applicable, to ensure compliance with Americans with Disabilities Act (ADA) and the Rehabilitation Act, medical information must be “maintained on separate forms and in separate medical files and be treated as a confidential medical record.” 42 U.S.C. 12112(d)(3)(B). This means that medical information and documents must be stored separately from other personnel records. As such, the Department must keep medical records for at least one year from creation date. 29 CFR 1602.14. Further, records compiled under this SORN will be maintained in accordance with

NARA General Records Schedule (GRS) 2.7, Items 010, 070 or 080, and NARA records retention schedules DAA–GRS2017–0010–0001, DAA–GRS2017–0010–0012, and DAA–GRS2017–0010–0013, to the extent applicable.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: The Department safeguards records in this system according to applicable rules and policies, including all applicable USDA automated systems security and access policies. The Department has imposed strict controls to minimize the risk of compromising the information that is being stored. Paper records are maintained in a secure, access-controlled room, with access limited to authorized personnel.

RECORD ACCESS PROCEDURES: All requests for access to records must be in writing and should be addressed to the USDA Departmental FOIA Office, ATTN: Departmental FOIA Officer, 1400 Independence Avenue SW South Building, Room 4104, Washington, DC 20250–0706, Email: *USDAFOIA@ocio.usda.gov*. The envelope and letter should be clearly marked “Privacy Act Access Request.” The request must describe the records sought in sufficient detail to enable Department personnel to locate them with a reasonable amount of effort. The request must include a general description of the records sought and must include the requester’s full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury. Additional details on procedures for access under the Privacy Act can be found in USDA Department Regulation 3515–002 Privacy Policy and Compliance for Personally Identifiable Information (PII) or at Privacy Policy and Compliance for Personally Identifiable Information (PII) (*usda.gov*).

CONTESTING RECORD PROCEDURES: Individuals seeking to contest or amend records maintained in this system of records must direct their requests to the address indicated in the “RECORD ACCESS PROCEDURES” paragraph, above. All requests to contest or amend records must be in writing and the envelope and letter should be clearly marked “Privacy Act Amendment Request.” All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record. Additional details on procedures for contesting or amending records under the Privacy Act can be found in USDA Department Regulation

3515–002 Privacy Policy and Compliance for Personally Identifiable Information (PII) or at Privacy Policy and Compliance for Personally Identifiable Information (PII) (*usda.gov*).

NOTIFICATION PROCEDURES: Individuals may be notified if a record in this system of records pertains to them when the individuals request information utilizing the same procedures as those identified in the “RECORD ACCESS PROCEDURES” paragraph, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: None.

Sullie Coleman,

Chief Privacy Officer,

United States Department of Agriculture.

[FR Doc. 2021-28547 Filed: 1/6/2022 8:45 am; Publication Date: 1/7/2022]